IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

WA.No. 2304 of 2007

(AGAINST THE JUDGEMENT IN WPC.23612/2007 Dated 02/08/2007)

APPELLANTS/ PETITIONERS IN WP(C):
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1. CHINNAMMA KURIAKOSE,
   PALLATHUKUDI HOUSE,
   ADIMALI P.O.,
   MANNAMKANDAM VILLAGE,
   IDUKKI DISTRICT.

2. BABU P.KURIAKOSE,
   PALLATHUKUDI HOUSE,
   ADIMALI P.O.,
   MANNAMKANDAM VILLAGE,
   IDUKKI DISTRICT.

   BY ADV. SRI.THAMPAN THOMAS

RESPONDENTS/RESPONDENTS IN WP(C):
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1. KERALA STATE FINANCIAL CORPORATION,
   VELLAYAMBALAM,
   THIRUVANANTHAPURAM-695 033,
   REP. BY ITS MANAGING DIRECTOR.

2. THE BRANCH MANAGER,
   KERALA STATE FINANCIAL CORPORATION,
   KATTAPPANA,
   IDUKKI DISTRICT.

3. P.C.BAIJU,
   PONGASSERY HOUSE,
   ADIMALI P.O.,
   MANNAMKANDAM VILLAGE,
   IDUKKI DISTRICT.

4. P.C.RAJEEV,
PONGASSERY HOUSE,
ADIMALI P.O.,
MANNAMKANDAM VILLAGE,
IDUKKI DISTRICT.

5. NALINI CHANDRAN,
PONGASSERY HOUSE,
ADIMALI P.O.,
MANNAMKANDAM VILLAGE,
IDUKKI DISTRICT.

R1 BY ADV. SHRI V.B. UNNIRAJ, SC, KERALA FINANCIAL CORPORATION.
R3 TO R5 BY ADV. SRI. JACOB CHACKO
BY ADV. SRI.RINOY JOSEPH.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.A. No. 2304 of 2007

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Dated this the 23rd October, 2007

J U D G M E N T

H.L. Dattu, C.J.:

This appeal arises out of the order passed by the learned single Judge in W.P.(C) No. 23612 of 2007 dated 2nd August, 2007.

2. Though the matter is listed in the admission list, by consent of the learned counsel for the parties to the lis, the matter is taken up for final hearing.

3. Petitioners in the Writ Petition are the legal representatives of the surety in respect of a loan granted to the father of respondent Nos. 3 to 5 and respondent Nos. 3 to 5 have defaulted in repaying the loan amount due to the first respondent-Kerala State Financial Corporation ('Corporation' for short). For realisation of the debt due to the first respondent–Corporation, it has proceeded against the sureties, viz., the petitioners and also against the principal borrower. The petitioners had approached this court, inter alia questioning the action of the Corporation. This Court, by its order dated 2nd August, 2007 was pleased to dispose of the Writ Petition with a direction to the petitioners to make an appropriate application for One Time Settlement for re-paying the loan amount borrowed by the father of respondent Nos. 3 to 5. The learned single Judge has further observed that till the application, if it is filed within the time granted by this court, is considered by the first

respondent-Corporation by one way or other, all recovery proceedings against the petitioners shall be kept in abeyance. Aggrieved by the aforesaid orders passed by the learned single Judge, the petitioners in the Writ Petition are before us in this Writ Appeal.

4. Respondent Nos. 3 to 5 who are legal representatives of the principal borrower are represented by their counsel. On instruction, the learned counsel, would submit that respondent Nos. 3 to 5 would now make an application before the first respondent-Corporation for payment of the entire amount due to the first respondent- Corporation under One Time Settlement scheme and therefore, the learned counsel requests us to modify the orders passed by the learned single Judge and allow the respondent Nos. 3 to 5 to make an appropriate application for One Time Settlement before the first respondent-Corporation.

5. The request of the learned counsel for respondent Nos.3 to 5, it appears to us, is reasonable. Therefore, we intend to modify the orders passed by the learned single Judge, as under:

O R D E R

i) Writ Appeal is disposed of.

ii) Respondent Nos. 3 to 5 who are legal representatives of the principal borrower would make an appropriate application as envisaged under One Time Settlement Scheme before the first respondent-Corporation, within a period of one month from today. If such an application is filed within the time

granted by this Court, the first respondent-Corporation would consider the same in accordance with the Scheme and in accordance with law.

iii) Till such time, as aforesaid, the first respondent- Corporation shall not proceed either against respondent Nos. 3 to 5 or against the petitioners/legal representatives of the surety.

iv) With the above observations and directions, the Writ Appeal is disposed of.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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